

Assembly Bill No. 2375

CHAPTER 415

An act to amend Section 87483 of the Education Code, and to amend Sections 7502, 7504, 7507, 7507.2, 20034, 20035, 20035.5, 20037, 20037.6, 20037.7, 20037.8, 20037.9, 20037.10, 20037.11, 20037.12, 20037.13, 20037.15, 20229, 20537, 20572, 20577.5, 20578, 20638, 20900, 21499, 21626.5, and 22820 of, and to repeal and amend Sections 20037.5 and 20037.14 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 21, 2016. Filed with
Secretary of State September 21, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2375, Committee on Public Employees, Retirement, and Social Security. Public Employees' Retirement System: omnibus bill.

(1) Existing law requires all state and local retirement systems to secure, not less than triennially, the services of an enrolled actuary, who is required to perform a valuation of the system. Existing law requires all state and local public retirement systems to submit audited financial statements to the Controller at the earliest practicable opportunity within 6 months of the close of each fiscal year. Existing law requires the Controller to review these reports and to publish an annual report on the financial condition of all state and local public retirement systems, as specified. Existing law requires the Controller to establish an advisory committee, including enrolled actuaries, to assist state and local systems with their reporting duties. Existing law requires the Legislature and local legislative bodies, when considering changes in retirement benefits or other postemployment benefits, to secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, except as specified. Existing law establishes the California Actuarial Advisory Panel, which consists of a specified membership that includes enrolled actuaries. Existing law requires the panel to provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies.

This bill would delete references to enrolled actuaries for purposes of the provisions described above. The bill would substitute for this designation, for purposes of establishing the advisory committee and the actuarial advisory panel, as described above, actuaries who have attained the designation of Associate or Fellow of the Society of Actuaries. The bill would substitute for the enrolled actuaries designation, for purposes of the triennial valuation and the reporting requirements described above, actuaries who satisfy the qualification standards for actuaries issuing statements of

actuarial opinion in the United States with regard to pensions or other postemployment benefits.

(2) Existing law, the Public Employees' Retirement Law, creates the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies and prescribes the rights and duties of members of the system and their beneficiaries. Existing law vests management and control of PERS in its board of administration. PERS provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations.

Existing law prescribes various definitions of final compensation based on employment classification, bargaining unit, date of hire, and date of retirement, among other things.

This bill would revise these definitions to remove redundant language and make technical and style changes.

(3) Existing law requires the board to provide the Legislature, the Governor, and the Chair of the California Actuarial Advisory Panel a specified report in connection with state employee retirement plans. Existing law requires the Chair of the California Actuarial Advisory Panel, within 30 days of receipt of the report, at a specified, publicly noticed hearing, to make a presentation on certain issues relating to investment returns and amortization.

This bill would require that the presentation described above to be made each legislative session and that the presentation be based on the report made by the board.

(4) Existing law authorizes the board to charge interest, at the actuarial interest rate, on the amount of any payment due and unpaid by a contracting agency until payment is received.

This bill would instead permit the board to charge interest on payments due and unpaid at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10%.

(5) In addition to the above, existing law authorizes the board to assess a contracting agency that fails to make contributions when due interest at an annual rate of 10% and the costs of collection, including reasonable legal fees. In the case of repeated delinquencies, the board may assess the contracting agency a penalty of 10% of the delinquent amount.

This bill would recast these provision to authorize the board, if a contracting agency fails to fully pay any installment of contributions when due, to assess a penalty of 10% of the total amount due and unpaid, including accrued and unpaid interest. The bill would permit the penalty to be assessed once during each 30-day period that the outstanding amount remains unpaid. The bill would also specify that the contracting agency may be assessed the costs of collection, including reasonable legal fees and litigation costs, including, without limitation, legal fees and legal costs incurred in bankruptcy, when necessary to collect any amounts due.

(6) Existing law authorizes the board to terminate a local agency contract if the contracting agency fails for 30 days after demand by the board to pay any installment of required contributions or fails for three months after demand to file any information required for administration of the agency's employees. Existing law permits the board to reduce benefits in certain instances when contributions are inadequate to fund them. Existing law authorizes the board to merge a plan that has been terminated into the terminated agency pool without benefit reduction or with a lesser reduction if certain conditions are met.

This bill would delete references to merging a plan and instead specify that the board may elect to not impose a reduction on a plan, or to impose a lesser reduction on a plan, that has been terminated if those acts will not impact the actuarial soundness of the terminated agency pool. The bill would make related changes by deleting administrative provisions relating to the sequence for transferring assets in relation to the reduction of benefits.

(7) Existing law authorizes certain members who are either academic employees of the California State University or certificated employees of school districts employed on a part-time basis to receive full-time service credit and the benefits related to that status if both the member and employer elect to make the appropriate additional contributions and other requirements are met. Existing law limits the application of these provisions to 5 years of part-time status.

This bill would extend the authorization described above to academic employees of community college districts. The bill would also make a correctional change in this regard.

(8) Existing law requires payment of interest on a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit if not paid within a specified time after the date of death of an annuitant. Existing law prescribes the method of calculating interest for this purpose.

This bill would instead require that interest be calculated at 7%, pursuant to the California Constitution.

(9) Existing law requires a surviving domestic partner be treated in the same manner as a surviving spouse for purposes of postretirement survivor's allowances if certain conditions are met.

This bill would require that an individual who is the same gender as a member be treated in the same manner as a surviving spouse for purposes of postretirement survivor's allowances if certain conditions are met.

(10) Existing law, the Public Employees' Medical and Hospital Care Act (PEMHCA), which is administered by the Board of Administration of the Public Employees' Retirement System, authorizes the board to contract for health benefit plans for employees and annuitants, as defined, which may include employees and annuitants of contracting agencies. Existing law grants eligible, uninsured family members of specified firefighters or peace officers whose deaths are the result of injury or disease arising out of their duties the status of annuitants for purposes of receiving benefits under PEMHCA. Existing law requires employers to notify the board within 10

business days of the death of the employee in this context if a spouse of family member may be eligible for enrollment in a health benefit plan in this regard.

This bill would revise the duty of employers to notify the board to also require that they provide updated contact information of the surviving spouse or family member if that person may be eligible for enrollment.

The people of the State of California do enact as follows:

SECTION 1. Section 87483 of the Education Code is amended to read:

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations that allow academic employees to reduce their workload from full-time to part-time duties. The regulations shall include, but shall not be limited to, the following if the employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22713 of this code or Section 20900 of the Government Code:

(a) The employee shall have reached the age of 55 prior to reduction in workload.

(b) The employee shall have been employed full time in an academic position or a position requiring certification qualifications, or both, for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in an academic position or a position requiring certification qualifications, or both, for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment shall be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his or her final year of service in a full-time position.

(g) The period of this part-time employment shall not exceed five years for employees subject to Section 20900 of the Government Code or 10 years for employees subject to Section 22713 of this code.

(h) The period of part-time employment of employees subject to Section 20815 of the Government Code shall not extend beyond the end of the college year during which the employee reaches his or her 70th birthday. This subdivision shall not apply to any employee subject to Section 22713 of this code.

SEC. 2. Section 7502 of the Government Code is amended to read:

7502. The Controller shall review the annual financial report of each state and local public retirement system submitted pursuant to Section 7504 giving particular consideration to the adequacy of funding of each system. The Controller shall also review the triennial valuation of each public retirement system submitted pursuant to Section 7504 and shall give particular consideration to the assumption concerning the inflation element in salary and wage increases, mortality, service retirement rates, withdrawal rates, disability retirement rates, and rate of return on total assets.

The Controller shall establish an advisory committee that shall include actuaries who have attained the designation of Associate or Fellow of the Society of Actuaries and state and local public retirement system administrators to assist in carrying out the duties imposed by this section.

SEC. 3. Section 7504 of the Government Code is amended to read:

7504. (a) All state and local public retirement systems shall, not less than triennially, secure the services of an actuary. For the purposes of this section, “actuary” means an actuary who satisfies the qualification standards for actuaries issuing statements of actuarial opinion in the United States with regard to pensions or other postemployment benefits and who has demonstrated experience in public retirement systems. The actuary shall perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency that are, in the aggregate, reasonably related to the experience and the actuary’s best estimate of anticipated experience under the system. Any differences between the actuarial assumptions and techniques used by the actuary that differ significantly from those established by the agency shall be disclosed in the actuary’s report and the effect of the differences on the actuary’s statement of costs and obligations shall be shown.

(b) All state and local public retirement systems shall secure the services of a qualified person to perform an attest audit of the system’s financial statements. A qualified person means any of the following:

(1) A person who is licensed to practice as a certified public accountant in this state by the California Board of Accountancy.

(2) A person who is registered and entitled to practice as a public accountant in this state by the California Board of Accountancy.

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3).

(4) A county auditor in any county having a pension trust and retirement plan established pursuant to Section 53216.

(c) All state and local public retirement systems shall submit audited financial statements to the Controller at the earliest practicable opportunity within six months of the close of each fiscal year. However, the Controller may delay the filing date for reports due in the first year until the time as report forms have been developed that, in his or her judgment, will satisfy the requirements of this section. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section. Upon a satisfactory showing of good cause, the Controller may waive the penalty for late filing provided by this subdivision.

(d) The Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502. The report shall be published within 12 months of the receipt of the information, and in no case later than 18 months after the end of the fiscal year upon which the information in the report is based.

SEC. 4. Section 7507 of the Government Code is amended to read:

7507. (a) For the purpose of this section:

(1) "Actuary" means an actuary as defined in Section 7504.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at

which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

SEC. 5. Section 7507.2 of the Government Code is amended to read:

7507.2. (a) There is hereby enacted the California Actuarial Advisory Panel. The panel shall provide impartial and independent information on pensions, other postemployment benefits, and best practices to public agencies and shall meet quarterly.

(b) The responsibilities of the California Actuarial Advisory Panel shall include, but are not limited to:

(1) Defining the range of actuarial model policies and best practices for public retirement plan benefits, including pensions and other postemployment benefits.

(2) Developing pricing and disclosure standards for California public sector benefit improvements.

(3) Developing quality control standards for California public sector actuaries.

(4) Gathering model funding policies and practices.

(5) Replying to policy questions from public retirement systems in California.

(6) Providing comment upon request by public agencies.

(c) The California Actuarial Advisory Panel shall consist of eight members. Each member shall be an actuary who has attained the designation of Associate or Fellow of the Society of Actuaries and who has demonstrated

experience with public sector clients. Members shall be appointed by the entities listed below, and each member shall serve a three-year term, provided that, in the initial appointments only, the panelists named by the University of California, the Senate, and one of the panelists named by the Governor shall serve two-year terms. The Governor shall appoint two panelists, and one panelist shall be appointed by each of the following:

- (1) The Teachers' Retirement Board.
- (2) The Board of Administration of the Public Employees' Retirement System.
- (3) The State Association of County Retirement Systems.
- (4) The Board of Regents of the University of California.
- (5) The Speaker of the Assembly.
- (6) The Senate Committee on Rules.
- (d) The California Actuarial Advisory Panel shall be located in the Controller's office, which shall provide support staff to the panel.
- (e) The opinions of the California Actuarial Advisory Panel are nonbinding and advisory only. The opinions of the panel shall not, in any case, be used as the basis for litigation.
- (f) A member of the California Actuarial Advisory Panel shall receive reimbursement for expenses that shall be paid by the authority that appointed the member.
- (g) The California Actuarial Advisory Panel shall report to the Legislature on or before February 1 of each year.

SEC. 6. Section 20034 of the Government Code is amended to read:

20034. The highest annual average compensation during any consecutive 12- or 36-month period of employment as a member of any retirement system maintained by the university shall be considered compensation earnable by a member of this system for purposes of computing final compensation for the member providing he or she retires concurrently under both systems.

SEC. 7. Section 20035 of the Government Code is amended to read:

20035. (a) Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a state member who retires or dies on or after July 1, 1991, and with respect to benefits based on service with the state, means the highest annual compensation which was earnable by the state member during any consecutive 12-month period of employment preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) With respect to a state member who retires or dies on or after July 1, 1991, and who was a managerial employee, as defined by subdivision (e) of Section 3513, or a supervisory employee, as defined by subdivision (g) of Section 3513, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991–92 fiscal year, "final compensation" means the highest annual compensation the state member would have earned had his or her salary range not been reduced by the

5-percent reduction. This subdivision shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer in the same manner as other retirement benefits are funded.

SEC. 8. Section 20035.5 of the Government Code is amended to read:

20035.5. Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a school member who retires or dies on or after January 1, 2000, and with respect to benefits based on service with a school employer, means the highest annual compensation that was earnable by the school member during any consecutive 12-month period of employment preceding the effective date of his or her retirement or the date of his or her last separation from service if earlier.

SEC. 9. Section 20037 of the Government Code is amended to read:

20037. For a state member, or for a local member who is an employee of a contracting agency that is subject to this section, "final compensation" means the highest annual average compensation earnable by a member during any consecutive 36-month period of employment preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier, including any or all of the period or periods of (a) service required for qualification for membership, or (b) prior service which qualifies for credit under this system, if any, immediately preceding membership, or (c) time prior to entering state service at the compensation earnable by him or her in the position first held by him or her in that service, as may be necessary to complete three consecutive years. For the purposes of this section, periods of service separated by a period of retirement or breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such a period of retirement or breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during that time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during that excess time shall be excluded in computation of final compensation. On and after November 13, 1968, this section shall apply to all contracting agencies and to the employees of those agencies whether or not those agencies have previously elected to be subject to this section, except that this section shall not apply to an employee of a contracting agency which has not elected to be subject to this section whose death occurred or whose retirement was effective prior to November 13, 1968.

SEC. 10. Section 20037.5 of the Government Code, as added by Section 56 of Chapter 88 of the Statutes of 1998, is repealed.

SEC. 11. Section 20037.5 of the Government Code, as added by Section 56 of Chapter 91 of the Statutes of 1998, is amended to read:

20037.5. Notwithstanding Section 20035, “final compensation” for a state member who has elected to be subject to Section 21353.5, for the purposes of determining any pension or benefit based on service credited under that section, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

SEC. 12. Section 20037.6 of the Government Code is amended to read:

20037.6. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after July 1, 2006, and is represented by State Bargaining Unit 2, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 2.

(c) This section does not apply to:

(1) Former state employees who return to state employment on or after July 1, 2006.

(2) State employees hired prior to July 1, 2006, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to July 1, 2006, who become subject to representation by State Bargaining Unit 2 on or after July 1, 2006.

(4) State employees on an approved leave of absence who return to active employment on or after July 1, 2006.

SEC. 13. Section 20037.7 of the Government Code is amended to read:

20037.7. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 14. Section 20037.8 of the Government Code is amended to read:

20037.8. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 12 or 13.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 12 or 13 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 15. Section 20037.9 of the Government Code is amended to read:

20037.9. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 16 or 19, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 16 or 19.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 16 or 19 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 16. Section 20037.10 of the Government Code is amended to read:

20037.10. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 7, means the highest average annual compensation earnable by the member during any consecutive 36-month period immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 7.

(c) This section does not apply to:

(1) Service credit accrued while classified as a state peace officer/firefighter while a member of State Bargaining Unit 7.

(2) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(3) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(4) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 7 on or after January 1, 2007.

(5) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 17. Section 20037.11 of the Government Code is amended to read:

20037.11. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 10, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 10.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 10 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 18. Section 20037.12 of the Government Code is amended to read:

20037.12. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 18, means the highest average annual compensation earnable by the member during any consecutive 36-month

period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 18.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 18 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 19. Section 20037.13 of the Government Code is amended to read:

20037.13. (a) Notwithstanding Sections 20035 and 20037, for the purposes of determining any pension or benefit with respect to benefits based on service with the state, “final compensation” means the highest annual compensation that was earnable by the state member during any consecutive 36-month period of employment preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section shall only apply to a member appointed to a career executive assignment, as defined in Section 18546, who at the time of appointment meets one or more of the following criteria:

(1) He or she previously had, but does not currently have, permanent status in the civil service.

(2) He or she is a person described in Section 18990 who was not, within the past 12 months, employed by the Legislature for two or more consecutive years.

(3) He or she is a person described in Section 18992 who was not, within the past 12 months, holding a nonelected exempt position in the executive branch.

(c) A state entity that employs a person described in subdivision (b) in a career executive assignment shall notify the Controller of this person’s employment status and the Controller shall forward this information to the system.

SEC. 20. Section 20037.14 of the Government Code, as amended by Section 127 of Chapter 296 of the Statutes of 2011, is repealed.

SEC. 21. Section 20037.14 of the Government Code, as added by Section 11 of Chapter 163 of the Statutes of 2010, is amended to read:

20037.14. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8, means the highest average annual compensation earnable by the member during any consecutive

36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

SEC. 22. Section 20037.15 of the Government Code is amended to read:

20037.15. (a) Notwithstanding Sections 3517.8, 20035, and 20037, final compensation for a person who is employed for the first time and becomes a member of the system on or after January 15, 2011, means the highest average annual compensation earnable by the member during any consecutive 36-month period preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier.

(b) This section applies to the following:

(1) Service credit accrued while a member of State Bargaining Unit 6 or 9 or in a class related to State Bargaining Unit 6 or 9 as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(2) Service credit accrued while a peace officer/firefighter member represented by State Bargaining Unit 7 or in a class related to peace officer/firefighter members in State Bargaining Unit 7 as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(3) Service credit accrued as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(4) Service credit accrued as an employee of the Legislature, the judicial branch, or the California State University.

(c) This section does not apply to:

(1) Former employees previously employed before January 15, 2011, who return to employment on or after January 15, 2011, and who were previously subject to a 12-month average.

(2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment, and who were previously subject to a 12-month average.

(3) State employees hired prior to January 15, 2011, who become subject to representation by State Bargaining Unit 6, 7, or 9 on or after January 15, 2011, and who were previously subject to a 12-month average.

(4) Employees on an approved leave of absence employed before January 15, 2011, who return to active employment on or after January 15, 2011, and who were previously subject to a 12-month average.

(d) If this section is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

SEC. 23. Section 20229 of the Government Code is amended to read:

20229. (a) The board, notwithstanding Section 10231.5, shall provide the Legislature, the Governor, and the Chair of the California Actuarial Advisory Panel, established pursuant to Section 7507.2, with an annual report that includes all of the following, as these items apply to state employee retirement plans:

(1) (A) A description of the investment return assumption utilized by the board when determining the contribution rates.

(B) A calculation of the contribution rates utilizing an investment return assumption 2 percentage points above and 2 percentage points below the investment return assumption utilized by the board.

(2) (A) A description of the amortization period for any unfunded liabilities utilized by the board when determining the contribution rates.

(B) A calculation of the contribution rates based on an amortization period equal to the estimated average remaining service periods of employees covered by the contributions.

(3) (A) A description of the discount rate utilized by the board for reporting liabilities.

(B) A calculation of those liabilities based upon a discount rate that is 2 percent below the long-term rate of return actually assumed by the board.

(4) The market value of the assets controlled by the board and an explanation of how the actuarial value assigned to those assets differs from the market value of those assets.

(b) Each legislative session, the Chair of the California Actuarial Advisory Panel, or his or her designee, shall, during a publicly noticed joint hearing of the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, do all of the following based on information received in the report required by subdivision (a):

(1) Explain the role played by the investment return assumption and amortization period in the calculation of the contribution rates.

(2) Describe the consequences for future state budgets should the investment return assumption not be realized.

(3) Report whether the board's amortization period exceeds the estimated average remaining service periods of employees covered by the contributions.

(c) The report required by subdivision (a) shall be submitted in compliance with Section 9795.

SEC. 24. Section 20537 of the Government Code is amended to read:

20537. The board may charge interest on the amount of any payment due and unpaid by a contracting agency until payment is received. Interest shall be charged at the greater of the annual return on the system's investments for the year prior to the year in which payments are not timely made or a simple annual rate of 10 percent. The interest shall be deemed interest earnings for the year in which the late payment is received.

SEC. 25. Section 20572 of the Government Code is amended to read:

20572. (a) If a contracting agency fails for 30 days after demand by the board to pay in full any installment of contributions required by its contract, or fails for three months after demand therefor by the board to file any information required in the administration of this system with respect to that contracting agency's employees, or if the board determines that the contracting agency is no longer in existence, the board may terminate that contract by resolution adopted by a majority vote of its members effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the contracting agency.

(b) In addition to the interest obligations set forth in Section 20537, if a contracting agency fails to pay in full any installment of the contributions when due and the failure continues for a period of three months, the contracting agency may be assessed a penalty of 10 percent of the total amount due and unpaid, including any accrued and unpaid interest. The penalty may be assessed once during each 30-day period that the outstanding amount remains unpaid. In addition, the contracting agency may be assessed the costs of collection, including reasonable legal fees and litigation costs, including, without limitation, legal fees and legal costs incurred in bankruptcy, when necessary to collect any amounts due.

SEC. 26. Section 20577.5 of the Government Code is amended to read:

20577.5. Notwithstanding Section 20577, the board may elect not to impose a reduction, or to impose a lesser reduction, on a plan that has been terminated pursuant to Section 20572 if (a) the board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and (b) the board finds that not reducing the benefits, or imposing a lesser reduction, will not impact the actuarial soundness of the terminated agency pool.

SEC. 27. Section 20578 of the Government Code is amended to read:

20578. (a) Except as provided in subdivision (b), on and after January 1, 1991, the rights and benefits of a former employee of a contracting agency which terminated on or before January 1, 1991, or of his or her beneficiary, shall be the same as if the agency had continued as a contracting agency.

Any monthly allowance of that individual, or of his or her beneficiary, that was reduced pursuant to Section 20577 because the contracting agency failed to pay the board the amount of the difference shall not be subject to continued reduction on or after January 1, 1991. As of January 1, 1991, benefits shall be paid at the level provided in the contract prior to that reduction. However, if a former employee of a contracting agency that terminated on or before January 1, 1991, becomes employed by another covered employer after the date of termination, including an employer subject to reciprocity, the benefits shall be calculated by using the highest compensation earned by the individual.

In accordance with Section 20580, an individual who has withdrawn his or her accumulated contributions from the terminated agency shall not be permitted to redeposit any withdrawn contributions upon again becoming a member of this system.

(b) If a contracting agency has not paid the system for any deficit in funding for earned benefits, as determined pursuant to Section 20577, members shall be entitled to the benefits to which members of the plan were entitled 36 months prior to the date the agency notified the board of its intention to terminate its contract or 36 months prior to the date the board notified the agency of its intent to terminate the contract, whichever is earlier. Entitlement to earned benefits under this subdivision shall be subject to Section 20577.5.

SEC. 28. Section 20638 of the Government Code is amended to read:

20638. The highest annual average compensation during any consecutive 12- or 36-month period of employment as a member of a county retirement system shall be considered compensation earnable by a member of this system for purposes of computing final compensation for the member provided:

(a) (1) Entry into employment in which he or she became a member in one system occurred on or after October 1, 1957, and within 90 days of discontinuance of employment as a member of the other system.

(2) This subdivision shall not deny the benefit of this section to any person retiring after October 1, 1963, who entered membership prior to October 1, 1957, if he or she entered the employment in which he or she became a member within 90 days of termination of employment in which he or she was a member of the other system, and he or she became a member within seven months of entry into employment, or, if an employee of a district as defined in Section 31468, became a member at the time the district was included in a county retirement system.

(b) He or she retires concurrently under both systems and is credited with the period of service under the county system at the time of retirement.

SEC. 29. Section 20900 of the Government Code is amended to read:

20900. (a) Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for the period of part-time employment, receive the credit the member would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits the member is entitled to under this

part, based upon the salary that he or she would have received if employed on a full-time basis, if the member and his or her employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration of this program, in conjunction with the administrative staff of the State Teachers' Retirement System and this system, shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to a member who meets the following criteria:

- (1) The member is one of the following:
 - (A) An academic employee of the California State University.
 - (B) A certificated employee of a school district.
 - (C) An academic employee of a community college district.
 - (2) The member meets the criteria provided in Sections 44922 and 87483 of the Education Code or Section 89516 of the Education Code.
 - (3) The member is not older than 70 years of age and is limited to a period of five years of part-time status.
- (b) The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 30. Section 21499 of the Government Code is amended to read:

21499. (a) Notwithstanding Section 21498, when either an initial payment of a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit is payable in an amount of ten dollars (\$10) or more, it shall be authorized to the Controller within 45 days of receipt by this system of all the necessary information, including the return of warrants issued or any overpayment outstanding after the date of the death of the annuitant.

(b) If any payment is not made within that time limitation, the payment shall also include interest at the default interest rate established in Section 1 of Article XV of the California Constitution for time following the expiration of that time limitation.

SEC. 31. Section 21626.5 of the Government Code is amended to read:

21626.5. (a) For purposes of Section 21624, 21626, 21627, 21629, or 21630, a surviving domestic partner shall be treated in the same manner as a surviving spouse if either:

- (1) The domestic partnership was registered for one year prior to the member's service retirement date or at the disability retirement date and continuously until the date of the member's death.
- (2) The member retired prior to January 1, 2006, and both the member and his or her domestic partner, who currently are in a state-registered domestic partnership, sign an affidavit stating that, at the time prescribed by the retirement system for married spouses to qualify for survivor continuance, the member and the domestic partner would have qualified to be registered as domestic partners pursuant to Section 297 of the Family Code.

(b) For purposes of Section 21624, 21626, 21627, 21629, or 21630, an individual who is the same gender as the member shall be treated in the same manner as a surviving spouse if the following conditions are satisfied:

(1) The individual entered into marriage with the member on or after the date when individuals of the same gender were legally allowed to enter into marriage and was married continuously until the date of the member's death.

(2) Either of the following applies:

(A) The member retired prior to the date when individuals of the same gender were legally allowed to enter into marriage, and both the member and his or her spouse, who are currently married, sign an affidavit stating that, at the time prescribed by the retirement system for spouses to qualify for a survivor continuance, the member and the individual would have qualified to be legally married had it been legally possible for people of the same gender to marry.

(B) The individual originally qualified to become a surviving spouse under subdivision (a).

SEC. 32. Section 22820 of the Government Code is amended to read:

22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, a firefighter employed by the federal government who was a resident of this state and whose regular duty assignment was to perform firefighting services within this state, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 business days of the death of the employee and any updated contact information of the surviving spouse or family member if that spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision (a), that dispute shall be determined by the Workers' Compensation Appeals Board, subject to the same procedures and standards applicable to hearings relating to claims for workers' compensation benefits. The jurisdiction of

the Workers' Compensation Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the Workers' Compensation Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, and except as otherwise provided in subdivision (d), the state shall pay the employer contribution required for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a spouse who was married to the deceased firefighter or peace officer on the deceased's date of death and either was married for a continuous period of at least one year prior to the date of death or was married to the deceased prior to the date the deceased firefighter or peace officer sustained the injury or disease resulting in death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.